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EXAMINER	
WATTS, JENNA A	
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1781	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/573,494	TANIKAWA ET AL.	
	Examiner	Art Unit	
	Jenna A. Watts	1781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 October 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2,4,6 and 8-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2,4,6 and 8-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2, 9-11, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (JP Patent No. 56-24506), previously made of record, in view of Fujiwara et al. (JP Patent No. 10-108638), further in view of Huang et al. (5,296,247), previously made of record, and further in view of Cornish et al. (GB 2276306).

5. Regarding Claims 2, 9-11, 15 and 17, Kato teaches a method for making filled snacks, such as wontons (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent) that is dried by non-oil-frying (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Regarding steps (a) and (b), Kato teaches kneading a wheat flour mixture of wheat flour, starch and gluten and water and rolling said dough to prepare a large or broad dough sheet (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Kato teaches that the dough is mixed to uniformity and then extended/stretched to a certain thickness to form a dough skin, and this is understood to mean that the dough is rolled to prepare a large or broad dough sheet. Regarding step (c), Kato teaches that the thin dough sheet is cut into 70 mm square shaped skins or wraps, and the skins or wraps are further steamed (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Thus, the large or broad dough sheet is formed into a plurality of sections of a specified size and shape.

6. Regarding step (d) and (e), Kato teaches that the resulting square -shaped skins of dough are filled with freeze-dried pork filling and the perimeters of the dough skin are joined together by compression, such that the wrap does not fall apart (Page 5, Column

9, lines 1-15 of JP Patent). Since Kato teaches that the perimeters of the dough skin are joined together, it would be reasonably expected that the opposite edges would be joined in order to close the skin/wrap of dough. Regarding step (f), Kato further teaches that the resulting wontons are dried with air at 90℃ (Page 5, Column 9, lines 1-15 of JP Patent). Thus, the filled snacks or wontons are dried by means other than oil frying. Kato further teaches that after the drying step, the wontons are ready to eat (Page 5, Column 9, lines 1-15 of JP Patent). The wontons as taught by Kato are deemed wrapped dumplings, because they are filled and enclosed dough products.

7. Regarding step (c), Kato does not specifically teach that the rolled dough sheet is steamed prior to being cut into a plurality of smaller sections.

8. However, in view of the fact that Applicant discloses that the method can be performed by steaming and then cutting a plurality of shapes or alternatively cutting and then steaming, there does not appear to be an element of criticality with respect to the method steps of steaming and cutting, because either method produces steamed and cut pieces of dough. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, to determine the most efficient order of steaming and cutting the dough sheet in order to provide the filled snacks taught by Kato.

9. Furthermore, it has been found that “selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results.” See MPEP 2144.04 IV C.

10. Regarding amended Claim 2 and Claims 15 and 17, Kato does not specifically teach cooling the rolled dough after steaming the rolled dough sheet, and does not teach where the rolled dough sheet is cooled to a temperature of 30℃ or below before cutting the plurality of section, or where the rolled dough sheet is cooled by applying cooling air.

11. Fujiwara teaches production of quickly prepared foods such as starch noodles and teaches forming the dough into a sheet or cloth, steaming the dough, cooling/drying the dough and cutting the dough into any suitable size and then drying the dough shapes (Page 1 of JP Machine Translation, Abstract, and Paragraphs 1 and 17). Fujiwara further teaches that the cooling/drying stage allows the dough sheet to be "exfoliated" or removed from the conveyor and teaches performing the surface cooling desiccation step on the shaped sheet via fans, wherein the cooling temperature is performed for 30 seconds to 5 minutes so that the sheet may become 30℃ or less or 20℃ as in one Example (Paragraphs 21 and 29). The dough is further shaped into smaller pieces after the cooling stage and dried (Paragraph 21). Since Fujiwara teaches cooling the dough sheet to a temperature of 30℃ or below, Fujiwara is deemed to teach wherein the rolled dough sheet is cooled by applying cooling air.

12. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, for the method of Kato to have comprised a step of cooling the rolled dough sheet after steaming and before cutting the dough into a plurality of sizes and shapes, because Fujiwara teaches a process of making dried pasta products and teaches that such a cooling step enables the dough sheet to be

extricated or removed from the conveyor, thereby allowing the rest of the processing to occur more easily. One of ordinary skill in the art would have been motivated to include a cooling step into the method of Kato in order to ensure that the dough sheet is able to be removed from the surface or conveyor so that the subsequent processing steps can be easily achieved without tearing or otherwise harming the dough sheet.

13. Regarding step (e) of amended Claim 2 and Claim 9, Kato does in view of Fujiwara does not teach that the opposite ends of each of the dough sections are thermally compressed together by using heated compression plates so that they are joined, or further teach wherein heat is applied at a temperature within the range of 30 to 150℃ or wherein pressure is applied within a range of 0.1kg/sq.cm to 50 kg/sq.cm.

14. Huang teaches that in recent years there has been a substantially increased demand for foods which can be prepared quickly and filled pasta products are very popular with consumers and teaches a method of making a filled pasta product, such as ravioli, tortellini, dumplings, wontons, etc. (Column 1, lines 15-20 and 38-42). Huang teaches that the method of making the filled pasta products teaches the use of a rotary stamper or cutter that serves to receive and partition the cylindrical pasta shell into pasta segments having axial ends and shaping each segment having a predetermined configuration and sealing the axial ends to capture and retain the filler material within each segment of the pasta shell (Column 13, lines 49-54). Huang teaches that as the precooked cylindrical pasta shell is advanced towards the rotary cutter or stamper, a leading portion thereof is initially pressed downwardly by the leading cutting edge and continued compression of the shell by the leading flat surface urges the filling material

to be forced into a centrally located recessed cavity or pocket (Column 15, lines 25-35 and Figures 13 and 14). Huang teaches that this step is repeated as the trailing cutter edge starts to compress the cylindrical pasta shell and again, filling material in the region of the trailing cutting edge is forced to move into the cavity or pocket. Huang teaches that in this manner, once the pasta segment has been stamped and fully formed, it will substantially fill the entire space defined between each two successive cutters (Column 15, lines 48-50), and therefore, the pasta is seen as being compressed and molded into the resulting form by contact with the stamper with the filling being retained within the pasta shell.

15. Huang further teaches that it will be appreciated that the axial ends must be sealed whereby the upper cylindrical half of the outer wrap is compressed against the lower half of the cylindrical outer wrap, these being flattened by the flat peripheral surface during which filling material between the flattened portions are displaced by pressure into the central region. Huang teaches that once the filling material has been displaced, the upper and lower halves of the pasta shell or wrap are pressed against each other (Column 16, lines 1-6). Huang teaches that by maintaining the temperature of the pasta shell above about 70°C upon extrusion and during the stamping or cutting step, it has been found that the precooked dough fuses to provide a reliable seal or bond, insuring that the filling material is captured and retained within each pasta segment (Column 16, lines 5-10). Therefore, since Huang teaches that the temperature of the pasta is kept above about 70°C during the stamping or cutting step, wherein the temperature is within the range claimed by Applicant, it is understood that heat would be

applied or at least maintained in order for this to occur during the stamping and thus simultaneously with the pressure being applied by the stamping or cutting step.

16. Huang does not specifically teach wherein the edges are thermally compressed together by using heated compression plates so that they are joined.

17. Cornish teaches a method of preparing filled dough snacks comprising using a dough comprising wheat flour and a sweet or savory filling (Page 2, Paragraph 3 and Page 3, Paragraph 1), and teaches that filing is placed between the two layers of the dough and the two layers are then sealed together by compression around the filling to define the shape of the product, preferably by the application of pressure (Page 3, Paragraph 3 and Page 10, Paragraph 2). Cornish teaches that the pressure, with or without heat, may be applied to the layers of dough from above, from below, or from both directions in unison (Page 3, Paragraph 3 and Page 4, Paragraph 4). Cornish teaches that preferably, the casing of dough as prepared and baked is sealed around its entire periphery so as securely to contain the filling (Page 5, Paragraph 1). Since Cornish teaches sealing dough with a filling inside using both pressure and heat, wherein the filling is securely sealed within the dough, Cornish is deemed to teach using heated compression plates.

18. Regarding Claims 10-11, in view of the fact that Applicant states that the thermal compressing operation can be performed with a known conventional compression molding machine and Cornish teaches compression molding of the dough into a sealed filled dough product, the apparatus taught by Cornish is deemed to meet the claimed requirements of using heated compression plates to the opposite edges of the sections

so they are they joined and would be reasonably expected to operate within the claimed pressure parameters of between 0.1kg/sq.cm to 50 kg/sq. cm, absent any evidence to the contrary.

19. Therefore, given the teachings of Huang and Cornish, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, for the method of making filled snacks to have comprised using heated compression plates to join the edges of the dough product using the claimed temperature and pressure because the art acknowledges the importance of retaining the filling within a sealed dough product and using a temperature in the claimed range to seal the dough product, and when faced with such a task, one of ordinary skill in the art would have been motivated to try a sealing method comprising heated compression plates that is known to produce a filled dough product where the filling is securely enclosed within the dough product.

20. Claims 4, 8, 12-14, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (JP Patent No. 56-24506), previously made of record, in view of Fujiwara et al. (JP Patent No. 10-108638), further in view of Tobey et al. (U.S. Patent No. 3,782,271), previously made of record, further in view of Huang et al. (5,296,247), previously made of record, and further in view of Cornish et al. (GB 2276306).

21. Regarding Claims 4, 8, 12-14, 16, and 18-20, Kato teaches a method for making filled snacks, such as wontons (Pages 4 and 5, Column 8, lines 38-44 and Column 9,

lines 1-15 of JP Patent) that is dried by non-oil-frying (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Regarding steps (a) and (b), Kato teaches kneading a wheat flour mixture of wheat flour, starch and gluten and water and rolling said dough to prepare a large or broad dough sheet (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Kato teaches that the dough is mixed to uniformity and then extended/stretched to a certain thickness to form a dough skin, and this is understood to mean that the dough is rolled to prepare a large or broad dough sheet. Regarding steps (c) and (f), Kato teaches that the thin dough sheet is cut into 70 mm square shaped skins or wraps, and the skins or wraps are further steamed (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Thus, the large or broad dough sheet is formed into a plurality of sections of a specified size and shape.

22. Regarding steps (g) and (h), Kato teaches that the resulting square -shaped skins of dough are filled with freeze-dried pork filling and the perimeters of the dough skin are joined together by compression, such that the wrap does not fall apart (Page 5, Column 9, lines 1-15 of JP Patent). Since Kato teaches that the perimeters of the dough skin are joined together, it would be expected that the opposite edges would be joined in order to close the skin/wrap of dough. Regarding step (i), Kato further teaches that the resulting wontons are dried with air at 90℃ (Page 5, Column 9, lines 1-15 of JP Patent). Thus, the filled snacks or wontons are dried by means other than oil frying. Kato further teaches that after the drying step, the wontons are ready to eat (Page 5,

Column 9, lines 1-15 of JP Patent). The wontons as taught by Kato are deemed wrapped dumplings, because they are filled and enclosed dough products.

23. Regarding steps (c) and (f), Kato does not teach that the rolled broad dough sheet is steamed prior to being cut into a plurality of sections of a specified size and a specified shape.

24. However, in view of the fact that Applicant discloses that the method can be performed by steaming and then cutting a plurality of shapes or alternatively cutting and then steaming, there does not appear to be an element of criticality with respect to the method steps of steaming and cutting, because either method produces steamed and cut pieces of dough. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, to determine the most efficient order of steaming and cutting the dough sheet in order to provide the filled snacks taught by Kato.

25. Furthermore, it has been found that "selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results." See MPEP 2144.04 IV C.

26. Regarding amended Claim 4 and Claims 16 and 18-20, Kato does not specifically teach cooling the rolled dough after steaming the rolled dough sheet, and does not teach where the rolled dough sheet is cooled to a temperature of 30℃ or below before slitting the broad dough sheet, or where the rolled dough sheet is cooled by passing the rolled broad dough sheet through a cold zone, wherein the cold zone is maintained at a temperature between 15℃ and -20℃, and wherein the surface

temperature of the rolled broad sheet is cooled, by passing it through a cold zone, to a temperature of approximately 15°C.

27. Fujiwara teaches production of quickly prepared foods such as starch noodles and teaches forming the dough into a sheet or cloth, steaming the dough, cooling/drying the dough and cutting the dough into any suitable size and then drying the shaped dough product (Page 1 of JP Machine Translation, Abstract, and Paragraphs 1 and 17). Fujiwara further teaches that the cooling/drying stage allows the dough sheet to be "exfoliated" or removed from the conveyor and teaches performing the surface cooling desiccation step on the shaped sheet via fans, wherein the cooling temperature is performed for 30 seconds to 5 minutes so that the sheet may become 30°C or less or 20°C as in one Example (Paragraphs 21 and 29). The dough is further shaped into smaller pieces after the cooling stage and dried (Paragraph 21).

28. Since Fujiwara teaches cooling the dough sheet to a temperature of 30°C or below and wherein the cooling occurs for a specified time, Fujiwara is deemed to teach wherein the rolled dough sheet is cooled by passing the dough sheet through a cold zone because the dough sheet is maintained in the cooling area for a specified amount of time in order to reach the taught temperature of less than 30°C or 20°C. Fujiwara's teaching of the dough sheet being at a temperature of 20°C after the cooling step is deemed an obvious variation of the dough being cooled to a temperature of approximately 15°C, because the limitation of approximately provides for temperatures above and below the claimed temperature. Furthermore, since the dough is cooled to a temperature of 20°C, it would be reasonably expected that the cooling area or zone

would be of a comparable temperature, and therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, to optimize the temperature of the cooling area or zone in order to provide the most efficient method of cooling and drying the dough.

29. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, for the method of Kato to have comprised a step of cooling the rolled dough sheet after steaming and before cutting into a plurality of sizes and shapes, because Fujiwara teaches a process of making dried pasta products and teaches that such a cooling step enables the dough sheet to be extricated or removed from the conveyor, thereby allowing the rest of the processing to occur more easily. One of ordinary skill in the art would have been motivated to include a cooling step into the method of Kato in order to ensure that the dough sheet is able to be removed from the surface or conveyor so that the subsequent processing steps can be easily achieved without tearing or otherwise harming the dough sheet.

30. Regarding step (d), Kato does not specifically teach that the broad dough sheet is transported.

31. Fujiwara teaches the use of a conveyor to move the dough through the processing steps of being formed, cooled and cut into shapes (see Figure 1 and Paragraph 17), therefore teaching transporting the dough sheet.

32. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the method of producing a filled snack, as taught by Kato, to include a step of transporting a dough sheet, as taught by Fujiwara, because

Fujiwara teaches an automated process of making a dough product using a conveyor belt as a transport means. One of ordinary skill in the art would have been motivated by economical reasons to use a conveyor belt to transport the dough sheet to further processing steps in order to increase the overall productivity of the system.

33. Furthermore, it has been found that "broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art." See MPEP 2144.04 III. In the instant case, Kato teaches a method of preparing a filled dough product wherein the filled snacks are formed into a specified size and shape from the larger dough sheet (Pages 4 and 5, Column 8, lines 38-44 and Column 9, lines 1-15 of JP Patent). Automating such an activity to include a step of transporting the dough, as taught by Fujiwara, would not materially affect the end product, it would merely increase the efficiency of the system.

34. Regarding step (e), Kato does not specifically teach that the broad dough sheet is slit as it has been transported, into specified widths to prepare a plurality of dough strips of narrower width, before it cuts the strips into specified sizes and shapes. However, it would be reasonably expected that multiple cuts would be required to arrive at a square shaped wonton, and changing the configuration or shape of an object has been found to be a matter of choice which a person of ordinary skill in the art would have found obvious, absent evidence that the particular configuration or shape of the claimed object was significant. See MPEP 2144.04 B. One of ordinary skill in the art

would have been motivated to arrive at the square-shaped wonton, from the broad dough sheet, in the most efficient way possible.

35. Regarding step (i), Kato in view of Fujiwara do not specifically teach that a powder is applied to the surface of a conveying belt for transporting said broad dough sheet in an amount ranging from 0.0014 g/cm^2 to 0.0222g/cm^2.

36. Tobey teaches an automatic pie apparatus and method wherein dough is fed into a dough shaping apparatus and the apparatus includes a belt mounted about a pair of pulleys, wherein the dough is shaped between the pulleys to begin its formation into a dough strip (Column 1, lines 10-11 and Column 2, lines 44-46). Tobey teaches that a flour duster is positioned atop the pulley to permit flour to be placed into the dough apparatus to prevent sticking of the dough on the pulleys utilized in shaping the dough into a continuous strip (Column 2, lines 48-52). The flour taught by Tobey is deemed to read on the powder claimed by Applicant. Since Applicant teaches “dusting” flour onto the conveyor, and Tobey teaches the use of a flour duster, it would be expected that a comparable amount of flour would be dusted onto the conveyor or pulley, absent any evidence to the contrary. Furthermore, Tobey is using the flour duster for the known purpose of ensuring that the dough sheet does not stick to the conveying apparatus and therefore, it would have been obvious to one of ordinary skill in the art at the time at the invention was made to optimize the amount of powder or flour dusted onto the surface of the conveyor belt in order to prevent the dough from sticking. One of ordinary skill in the art would have been motivated by economic reasons to use a minimal amount of

flour/powder, while still ensuring that the dough did not stick to the surface of the conveyor belt during further processing.

37. It has further been found that, where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges in the amount of powder dusted onto the conveyor involves only routine skill in the art. MPEP 2144.05 II.

38. Regarding step (h) of amended Claims 4, 8, and 12-14, Kato does in view of Fujiwara and Tobey do not teach that the opposite ends of each of the dough sections are thermally compressed together by using heated compression plates so that they are joined, or further teach wherein heat is applied at a temperature within the range of 30 to 150℃ or wherein pressure is applied within a range of 0.1kg/sq.cm to 50 kg/sq.cm.

39. Huang teaches that in recent years there has been a substantially increased demand for foods which can be prepared quickly and filled pasta products are very popular with consumers and teaches a method of making a filled pasta product, such as ravioli, tortellini, dumplings, wontons, etc. (Column 1, lines 15-20 and 38-42). Huang teaches that the method of making the filled pasta products teaches the use of a rotary stamper or cutter that serves to receive and partition the cylindrical pasta shell into pasta segments having axial ends and shaping each segment having a predetermined configuration and sealing the axial ends to capture and retain the filler material within each segment of the pasta shell (Column 13, lines 49-54). Huang teaches that as the precooked cylindrical pasta shell is advanced towards the rotary cutter or stamper, a leading portion thereof is initially pressed downwardly by the leading cutting edge and continued compression of the shell by the leading flat surface urges the filling material

to be forced into a centrally located recessed cavity or pocket (Column 15, lines 25-35 and Figures 13 and 14). Huang teaches that this step is repeated as the trailing cutter edge starts to compress the cylindrical pasta shell and again, filling material in the region of the trailing cutting edge is forced to move into the cavity or pocket. Huang teaches that in this manner, once the pasta segment has been stamped and fully formed, it will substantially fill the entire space defined between each two successive cutters (Column 15, lines 48-50), and therefore, the pasta is seen as being compressed and molded into the resulting form by contact with the stamper with the filling being retained within the pasta shell.

40. Huang further teaches that it will be appreciated that the axial ends must be sealed whereby the upper cylindrical half of the outer wrap is compressed against the lower half of the cylindrical outer wrap, these being flattened by the flat peripheral surface during which filling material between the flattened portions are displaced by pressure into the central region. Huang teaches that once the filling material has been displaced, the upper and lower halves of the pasta shell or wrap are pressed against each other (Column 16, lines 1-6). Huang teaches that by maintaining the temperature of the pasta shell above about 70°C upon extrusion and during the stamping or cutting step, it has been found that the precooked dough fuses to provide a reliable seal or bond, insuring that the filling material is captured and retained within each pasta segment (Column 16, lines 5-10). Therefore, since Huang teaches that the temperature of the pasta is kept above about 70°C during the stamping or cutting step, wherein the temperature is within the range claimed by Applicant, it is understood that heat would be

applied or at least maintained in order for this to occur during the stamping and thus simultaneously with the pressure being applied by the stamping or cutting step.

41. Huang does not specifically teach wherein the edges are thermally compressed together by using heated compression plates so that they are joined.

42. Cornish teaches a method of preparing filled dough snacks comprising using a dough comprising wheat flour and a sweet or savory filling (Page 2, Paragraph 3 and Page 3, Paragraph 1), and teaches that filing is placed between the two layers of the dough and the two layers are then sealed together by compression around the filling to define the shape of the product, preferably by the application of pressure (Page 3, Paragraph 3 and Page 10, Paragraph 2). Cornish teaches that the pressure, with or without heat, may be applied to the layers of dough from above, from below, or from both directions in unison (Page 3, Paragraph 3 and Page 4, Paragraph 4). Cornish teaches that preferably, the casing of dough as prepared and baked is sealed around its entire periphery so as securely to contain the filling (Page 5, Paragraph 1). Since Cornish teaches sealing dough with a filling inside using both pressure and heat, wherein the filling is securely sealed within the dough, Cornish is deemed to teach using heated compression plates.

43. Regarding Claims 13-14, in view of the fact that Applicant states that the thermal compressing operation can be performed with a known conventional compression molding machine and Cornish teaches compression molding of the dough into a sealed filled dough product, the apparatus taught by Cornish is deemed to meet the claimed requirements of using heated compression plates to the opposite edges of the sections

so they are they joined and would be reasonably expected to operate within the claimed pressure parameters of between 0.1kg/sq.cm to 50 kg/sq. cm, absent any evidence to the contrary.

44. Therefore, given the teachings of Huang and Cornish, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, for the method of making filled snacks to have comprised using heated compression plates to join the edges of the dough product using the claimed temperature and pressure because the art acknowledges the importance of retaining the filling within a sealed dough product and using a temperature in the claimed range to sealed the dough product, and when faced with such a task, one of ordinary skill in the art would have been motivated to try a sealing method comprising heated compression plates that is known to produce a filled dough product where the filling is securely enclosed within the dough product.

45. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (JP Patent No. 56-24506), previously made of record, in view of Fujiwara et al. (JP Patent No. 10-108638), further in view of Tobey et al. (U.S. Patent No. 3,782,271), previously made of record, further in view of Huang et al. (5,296,247), previously made of record, further in view of Cornish et al. (GB 2276306), and further in view of Poon (U.S. Patent No. 3,489,105), previously made of record.**

46. Kato in view of Fujiwara, Tobey, Huang and Cornish are relied upon as above for the rejection of Claim 4.

47. Kato in view of Fujiwara, Tobey, Huang and Cornish are taken as cited above in the rejection of Claim 4 but do not teach that the powder applied to the conveyor belt is a starch powder that is one of potato starch, tapioca starch, corn starch and sago starch.

48. Poon teaches an improved process of making dough to be used for the wrapping of various foods such as wontons (Column 1, lines 20-25), wherein the dough is continually dusted with corn starch while it is being processed in the dough machine (Column 1, lines 42-43 and Column 2, lines 16-17 and 23-25). It is understood that the dough is dusted with corn starch to prevent it from sticking to the dough machine during processing.

49. Tobey and Poon are solving a similar problem of ensuring that dough is processing without sticking to the machinery or conveyor belt.

50. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute flour, as taught by Tobey, with corn starch, as taught by Poon, because such a functional substitution would not materially affect the objective of ensuring the dough does not stick to the conveyor belt. Corn starch is known in the prior art as an anti-sticking agent and one of ordinary skill could have replaced the flour of Tobey with the corn starch of Poon with a reasonable prediction of success that the corn starch would perform the same anti-sticking function as the flour. See MPEP 2143 Rationale B.

Response to Arguments

51. The 112 1st Paragraph rejection and the prior art rejections set forth in the previously mailed office action have been withdrawn in light of Applicant's amendment.

52. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

53. It is noted that the amended limitations of the cooling of the dough sheet and thermal compression plates are known in the art for preparing pasta or dough-based products and using art recognized methods for their art recognized functions of preventing the dough from sticking to the surface or conveyor, in the case of the cooling limitation, and prepared filled snacks comprising a reliable seal wherein the filling is securely retained within the sealed dough snack, in the case of the thermal compression plate limitation, in a method of preparing filled snacks would have been obvious to one of ordinary skill in the art at the time that the invention was made in light of the teaching of the prior art.

54. Therefore, in light of the above mentioned facts, the office action is made final and is deemed proper.

Conclusion

55. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

56. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

57. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna A. Watts whose telephone number is (571) 270-7368. The examiner can normally be reached on Monday-Friday 9am-5:00pm.

58. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

59. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. SAYALA/
Primary Examiner, Art Unit 1781

/Jenna A. Watts/
Examiner, Art Unit 1781
December 22, 2010